

SECTION: REMARKS

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by the undersigned attorney and applicant. Reconsideration of the application is respectfully requested.

1. Summary of the Office Action.

The drawings were objected to.

The disclosure was objected to.

Claims 1-20 were pending.

Claim 19 stands rejected under 35 U.S.C §112, first paragraph.

Claims 9, 16, 18 and 20 stand rejected under 35 U.S.C §112, second paragraph.

Claims 1-6, 9-12 and 16-18 stand rejected under 35 U.S.C §102(b) over Wollar (4,865,281)

Claims 1, 4-8, 10, 11 and 13 stand rejected under 35 U.S.C §102(b) over Lester (4,915,125)

Claims 1-5, 10-12, 14, 15, and 19 stand rejected under 35 U.S.C §102(b) over Keith et al
(6,206,331)

Claim 20 stands rejected under 35 U.S.C §102(b) over Snyder (6,079,674)

2. Discussion.

Drawing Objections

Enclosed are red-lined proposed correction for the examiner's consideration.

Disclosure Objections

The disclosure has been amended in view of the examiner's objection thereto. The examiner is thanked for pointing out this informality. Withdrawal of the objection is believed to be in order.

Claim Rejections - 35 USC §112, First Paragraph

Claim 19. This claim was rejected under 35 USC §112, first paragraph. Applicant has amended the claim to recite that the arm has a curvilinear configuration. Withdrawal of the rejection is believed to be in order.

Claim Rejections - 35 USC §112, Second Paragraph

Claims 9, 16, 18 and 20 . These claims was rejected under 35 USC §112, second paragraph. Claims 9, 16, and 18 were canceled. Some of the limitations of these claims were incorporated into claim 1 by an amendment described below. Care was taken to avoid positively claiming environmental structure. Claim 20 was amended to remove the indefinite language. For these reasons, the claim particularly points out and distinctly claims the subject matter which applicant regards as the invention. Withdrawal of the rejection is believed to be in order.

Claim Rejections - 35 USC §102

Claim 1. This claim was rejected under 35 USC §102(b) as being anticipated by Wollar, Lester, Keith et al. and Snyder. The claim is amended to patentably distinguish and limit over the applied art by defining the invention to require that: (1) the frame have a length, (2) the leg be disposed at one end of the frame, (3) the leg extend from the frame at an angle, (4) the leg have an aperture adapted to receive a screw nail for engaging a wall stud, (5) the leg be planar, (6) the passage have an openable and closeable structure, and that (7) the device function in operation to distance the fastened electrical wires from a wall stud. This structure and function is not shown, suggested or made obvious by the applied references. Specifically:

Wollar (directed to an automobile steering column wire fastener specially designed for use in a mass manufacturing environment) shows “Pine Tree Clip” fastener 40 for mating with a predrilled mounting hole (see column 2, lines 3-6) instead of an aperture for receiving a nail or screw for mating with a stud.

Lester (directed to a plumbing valve stem support specially designed for use in landfills gas venting) discloses an always closed support sleeve 32 instead of an openable and closeable passage.

Keith et al. (directed to an automobile vehicle body panel wire harness clip, also for use in a mass manufacturing process with pre-drilled mounting holes) disclose a “Christmas Tree Clip” 22 (held to constitute a “leg” in the office action) which is inserted into a panel

instead of a planar leg for flat coupling contact against a panel (stud).

Keith et al. fail to disclose an aperture adapted to receive a nail or screw in the leg.

Snyder (directed to a retaining clamp for a line-set assembly for an air conditioning system) shows a base plate 11 (held to constitute a frame in the office action) having a planar extension (held to constitute a leg in the office action) instead of a leg depending from a frame at an angle. Snyder also discloses a passage which is closely spaced the structure to which the clamp is attached instead of being spaced away from such structure.

No reference discloses or suggests a fastener for use holding wiring to wall framing member (commonly called "studs"). The devices of Wollar and Keith et al. require predrilled holes and cannot be used with common wood (2x4 or 2x6) wall studs. The devices of Lester and Snyder could be attached to wall studs. However, it would not be practical to fish electrical cable through the always closed passage of Lester, and a cable disposed in the device of Snyder would be too close to the stud and therefore susceptible to damage or penetration by a screw or nail used on wall board covering of the stud, in violation of the National Electrical Code Article 300.4 (D).

Applicant's device is optimally suited for fastening and supporting electrical wires, particularly nonmetallic sheathed cable in common use, to wall studs and to retain such cable in a wall cavity formed when the narrow face of such studs is covered with flush mounted wall board (also called dry wall or sheet rock).

It is submitted that this amendment clearly and patentably avoids the applied art. Withdrawal of the rejection is requested.

Claim 19. This claim was rejected under 35 USC §102(b) as being anticipated by Keith et al. The claim is amended to patentably distinguish and limit over the applied art by defining the invention to require, in addition to all of the limitations found in amended claim 1, that: (1) the angle of leg extension be a right angle, (2) the leg be adapted for use with the wide face of a wall stud, (3) in use the passage be held approximately 1 5/8 inches away from the wide face of the wall stud. This structure and function is not shown, suggested or made obvious by the applied references. In contrast, Keith et al. show a frame 20 does not depend from any flat leg member or any structural member which is intended for flat coupling with a framing member. Absolutely there is not right angled configuration between planar frame and leg members. Thus, if the frame 20 of Keith et al. were attached to the wide face of a wall stud, the cable passage would extend out of the wall cavity so that it would prevent flush mounting of wall board on one or both narrow faces of such studs. Applicant submits that this amendment patentably avoids the applied art. Withdrawal of the rejection is requested.

Claim 20. This claim was rejected under 35 USC §102(b) as being anticipated by Snyder. The claim is amended to patentably distinguish and limit over the applied art by defining the invention to require, in addition to all of the limitations found in amended claims 1 and 19, that: (1) the leg depend from the frame so that the leg is disposed towards one side (or face) of the frame, and that the lock member and arm (and thus the passage) depend from the frame on the opposite side of the frame;

and (2) that the passage be oriented parallel with the plane of the leg. This structure and function is not shown, suggested or made obvious by the applied references. In contrast, the leg of Snyder is not angled at all with respect to the frame. Wollar discloses a leg 32 disposed on the same side of the frame 50 as the passage 70. As is best shown in Fig. 3 of the application, Applicant's invention as amended has the advantage of having a clear and open area for driving a screw or nail through the leg and into the stud, un hindered by cable. Wollar also discloses a passage which is angled (see Fig. 4, and column 4, lines 52-58) with respect to the plane of the leg 30. Applicant's invention as amended has the advantage of supporting cable parallel the framing studs and aligned with other neighboring cable fasteners (best shown in Figure 9 of the application) for ease of cable stringing. This amendment patentably distinguishes over the applied art. Withdrawal of the rejection is requested.

Claims 2, 3, 6-8, and 11-15. These claims are all dependent upon claim 1; each such claim adds at least one limitation to the elements of the base claim and is therefore deemed to be allowable with such base and any intervening claim, at least for this reason. Amendments were made to claims 6, 8, 13, and 14 in view of the amendments to the base claims, rejections, and/or cancellation of claims.

3. Conclusion.

The claims pending after this amendment are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is now in a condition for allowance. Reconsideration and favorable action are respectfully requested.

Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, he is invited to call at the number below.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

Please charge any fee due not paid by a check or credit card provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

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Respectfully submitted,



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4-12-04

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